

AMENDED IN ASSEMBLY APRIL 28, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 634**

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**Introduced by Assembly Member Calderon**

February 24, 2015

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An act to amend Section 11273 of the Business and Professions Code, relating to time-shares.

LEGISLATIVE COUNSEL’S DIGEST

AB 634, as amended, Calderon. Vacation ownership and time-shares: owners list.

The Vacation Ownership and Time-share Act of 2004 requires all records of a time-share plan maintained by a time-share association to be made available for inspection and copying by any member for a purpose reasonably related to membership in the association. Existing law requires the time-share association to maintain among its records a complete list of the names and addresses of all owners of time-share interests in the time-share plan, as specified. Existing law prohibits an association from publishing the owners list or providing a copy of it to any time-share interest owner or to any 3rd party or using or selling the list for commercial purposes, except as provided in the time-share instruments.

This bill would require the owner addresses in the list to be mailing addresses, and would prohibit the association from publishing the list of owners or providing a copy of it to any time-share interest owner or to any 3rd party or using or selling the list for commercial purposes. *purposes, except to accomplish legitimate association business, as defined.* The bill would ~~provide methods for time-share interest owners to communicate with the entire membership of the association through~~

~~a written request to the association, if the association determines that the communication would advance legitimate association business, as specified: require the association board or managing entity to mail to those persons listed on the owner's list a communication requested in writing by an owner, if the mailing would address legitimate association business.~~ The bill would also specify that certain provisions of the Nonprofit Mutual Benefit Corporation Law pertaining to the list of names, addresses, and voting rights of members of a nonprofit mutual benefit corporation do not apply to time-share associations under the Vacation Ownership and Time-share Act of 2004.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature hereby finds and declares all of  
2     the following:

3     (a) In 2010, the court of appeal held that time-share association  
4     membership lists containing personal information may be  
5     distributed over the objection of many time-share owners.

6     (b) Time-share associations frequently have membership lists  
7     in excess of 10,000 members.

8     (c) Membership lists on the open market are of substantial value,  
9     particularly to unscrupulous parties that prey upon time-share  
10    owners.

11    (d) Legislation is needed to protect the privacy of time-share  
12    owners.

13    SEC. 2. Section 11273 of the Business and Professions Code  
14    is amended to read:

15    11273. (a) The books of account, minutes of members and  
16    governing body meetings, and all other records of the time-share  
17    plan maintained by the association or the managing entity shall be  
18    made available for inspection and copying by any member, or by  
19    his or her duly appointed representative, at any reasonable time  
20    for a purpose reasonably related to membership in the association.

21    (b) The records shall be made available for inspection at the  
22    office where the records are maintained. Upon receipt of an  
23    authenticated written request from a member along with the fee  
24    prescribed by the governing body to defray the costs of  
25    reproduction, the managing entity or other custodian of records of

1 the association or the time-share plan shall prepare and transmit  
2 to the member a copy of any and all records requested.

3 (c) The governing body shall establish reasonable rules with  
4 respect to all of the following:

5 (1) Notice to be given to the managing entity or other custodian  
6 of the records by the member desiring to make the inspection or  
7 to obtain copies.

8 (2) Hours and days of the week when a personal inspection of  
9 the records may be made.

10 (3) Payment of the cost of reproducing copies of records  
11 requested by a member.

12 (d) Every governing body member shall have the absolute right  
13 at any time to inspect all books, records, and documents of the  
14 association and all real and personal properties owned and  
15 controlled by the association.

16 (e) (1) The association shall maintain among its records a  
17 complete list of the names and mailing addresses of all owners of  
18 time-share interests in the time-share plan. The association shall  
19 update this list no less frequently than every six months.  
20 Notwithstanding any other provision of this section, the association  
21 shall not publish this list of owners or provide a copy of it to any  
22 time-share interest ~~owners~~ owner or to any third ~~party or use or~~  
23 ~~sell the list for commercial purposes.~~ party, or use or sell the list  
24 ~~for commercial purposes, except as required to accomplish~~  
25 ~~legitimate association business as described in paragraph (2).~~

26 ~~(2) If an owner of a time-share interest in the time-share plan~~  
27 ~~provides a written request to the association to communicate with~~  
28 ~~the membership of the association, the association shall, within~~  
29 ~~30 days of the date of the written request, determine whether the~~  
30 ~~communication would advance legitimate association business,~~  
31 ~~and shall provide a method of making the requested communication~~  
32 ~~without providing access to, or a copy of, the association~~  
33 ~~membership list to the requesting owner. The association shall~~  
34 ~~notify the requesting owner of its decision and may require~~  
35 ~~payment of the costs associated with making the communication,~~  
36 ~~before making the communication, and the requesting owner shall~~  
37 ~~provide payment, if required, to the association before the~~  
38 ~~association makes the communication. Any alternative method~~  
39 ~~that accomplishes the purpose set forth in a written request pursuant~~  
40 ~~to this paragraph shall be deemed a reasonable alternative. If the~~

~~association determines that a communication will not advance legitimate association business, the association shall, within 30 days, notify the requesting owner in writing and shall indicate the reasons for the rejection.~~

(2) (A) *If an owner of a time-share interest in the time-share plan makes a request to the owner's association to communicate by mail with the membership of the association, the board of administration of the owners' association or the managing entity is responsible for determining whether the requested mailing pertains to legitimate association business as defined in paragraph (3). If the board of administration of the association or the managing entity determines that the mailing pertains to legitimate association business, the requested mailing shall be made within 30 days after receipt of a request and payment by the owner of actual costs in accordance with subparagraph (B). If the board or managing entity determines that the requested mailing will not advance legitimate association business, the board or the managing entity shall, within 30 days after receipt of the request, notify the requesting owner in writing and shall indicate the reasons for the rejection.*

(B) *The owner who requests the mailing shall pay the association in advance for the association's actual costs in performing the mailing. The association shall make a good faith effort to minimize the costs of the mailing, including the use of a less expensive delivery method with respect to those owners who have previously consented to the less expensive delivery method.*

(C) *If the requested mailing is a proxy solicitation to recall one or more board members elected by the owners or to discharge the manager or managing entity, and the board of administration or managing entity does not complete the requested mailing within 30 days after receipt of a request from an owner and payment of actual costs, the superior court in the county where the time-share plan is located may, upon application from the requesting owner, summarily order the requested mailing. To the extent possible, the superior court shall dispose of an application on an expedited basis. In the event the court orders the mailing, it may order the board or managing entity to pay the owner's costs, including attorney's fees reasonably incurred to enforce the owner's rights, unless the board or the managing entity can prove it refused to distribute the materials in good faith because of reasonable doubt*

1 *about whether the requested mailing pertained to legitimate*  
2 *association business.*

3 *(D) The use of any proxies solicited by a mailing described in*  
4 *subparagraph (C) shall comply with the provisions of the*  
5 *time-share instrument and this chapter.*

6 *(E) It is unlawful for the board of administration of the*  
7 *association or managing entity to refuse to distribute a*  
8 *communication requested by an owner if the requested mailing*  
9 *would address legitimate association business.*

10 (3) For the purposes of this section, “legitimate association  
11 business” includes, but is not limited to, a proxy solicitation for  
12 any purpose, including, but not limited to, the recall of one or more  
13 of the board members elected by the owners, ~~or the discharge of~~  
14 ~~a manager or management firm, entity, or disposition of time-share~~  
15 ~~interests acquired by the association.~~

16 (4) Section 8330 of the Corporations Code shall not apply to  
17 time-share associations under this chapter.

18 (f) For single site time-share plans and component sites of a  
19 ~~multiline~~ *multisite* time-share plan located outside of the state, the  
20 association shall be subject to the provisions set forth in this  
21 section. The association must be in compliance with the applicable  
22 laws of the state or jurisdiction in which the time-share property  
23 or component site is located, and if a conflict exists between laws  
24 of the situs state and the requirements set forth in this section, the  
25 law of the situs state shall control. If the association and the  
26 time-share instruments provide for the matters contained in this  
27 section, the association shall be deemed to be in compliance with  
28 the requirements of this section and neither the developer nor the  
29 association shall be required to make revisions to the time-share  
30 instruments in order to comply with the section.